

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM E. HARRIS,

Plaintiff

v.

H. WICKHAM, et al.,

Defendants

Case No.: 3:20-cv-00557-MMD-CSD

Order

Re: ECF Nos. 92, 102

Before the court is Defendants' motion for leave to file exhibits containing Plaintiff's medical records under seal in support of their motion for partial summary judgment. (ECF No. 92.) Plaintiff has also filed a motion for leave to file exhibits containing his medical records under seal in support of his response to Defendants' motion for partial summary judgment. (ECF No. 102.)¹ Neither motion is opposed.

"Historically, courts have recognized a general right to inspect and copy public records and documents, including judicial records and documents." *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal quotation marks and citation omitted). "Throughout our history, the open courtroom has been a fundamental feature of the American judicial system. Basic principles have emerged to guide judicial discretion respecting public access to judicial proceedings. These principles apply as well to the determination of whether to permit access to information contained in court documents because court records often provide important, sometimes the only, bases or explanations for a court's decision." *Oliner v.*

¹ Plaintiff's motion for leave to file the exhibits under seal was mistakenly sealed.

1 *Kontrabecki*, 745 F.3d 1024, 1025 (9th Cir. 2014) (quoting *Brown & Williamson Tobacco Corp.*
2 *v. F.T.C.*, 710 F.2d 1165, 1177 (6th Cir. 1983)).

3 Documents that have been traditionally kept secret, including grand jury transcripts and
4 warrant materials in a pre-indictment investigation, come within an exception to the general right
5 of public access. *See Kamakana*, 447 F.3d at 1178. Otherwise, "a strong presumption in favor of
6 access is the starting point." *Id.* (internal quotation marks and citation omitted). "The
7 presumption of access is 'based on the need for federal courts, although independent—indeed,
8 particularly because they are independent—to have a measure of accountability and for the
9 public to have confidence in the administration of justice.'" *Center for Auto Safety v. Chrysler*
10 *Group, LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016), *cert. denied*, 137 S.Ct. 38 (Oct. 3, 2016)
11 (quoting *United States v. Amodeo (Amodeo II)*, 71 F.3d 1044, 1048 (2nd Cir. 1995); *Valley*
12 *Broad Co. v. U.S. Dist. Ct., D. Nev.*, 798 F.2d 1289, 1294 (9th Cir. 1986)).

13 There are two possible standards a party must address when it seeks to file a document
14 under seal: the compelling reasons standard and the good cause standard. *Center for Auto Safety*,
15 809 F.3d at 1096-97. Under the compelling reasons standard, "a court may seal records only
16 when it finds 'a compelling reason and articulate[s] the factual basis for its ruling, without
17 relying on hypothesis or conjecture.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1179). The court must
18 "'conscientiously balance[] the competing interests of the public and the party who seeks to keep
19 certain judicial records secret.'" *Id.* "What constitutes a 'compelling reason' is 'best left to the
20 sound discretion of the trial court.'" *Id.* (quoting *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 599
21 (1978)). "Examples include when a court record might be used to 'gratify private spite or
22 promote public scandal,' to circulate 'libelous' statements, or 'as sources of business information
23 that might harm a litigant's competitive standing.'" *Id.*

1 The good cause standard, on the other hand, is the exception to public access that has
2 been typically applied to "sealed materials attached to a discovery motion unrelated to the merits
3 of the case." *Id.* (citation omitted). "The 'good cause language comes from Rule 26(c)(1), which
4 governs the issuance of protective orders in the discovery process: The court may, for good
5 cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or
6 undue burden or expense.'" *Id.*

7 The Ninth Circuit has clarified that the key in determining which standard to apply is
8 whether the documents proposed for sealing accompany a motion that is "more than tangentially
9 related to the merits of a case." *Center for Auto Safety*, 809 F.3d at 1101. If that is the case, the
10 compelling reasons standard is applied. If not, the good cause standard is applied.

11 Here, the parties seek to file exhibits under seal in connection with Defendants' motion
12 for partial summary judgment and Plaintiff's response to that motion, which are unquestionably
13 "more than tangentially related to the merits of a case." Therefore, the compelling reasons
14 standard applies.

15 This court, and others within the Ninth Circuit, have recognized that the need to protect
16 medical privacy qualifies as a "compelling reason" for sealing records. *See, e.g., Moreno v.*
17 *Adamson*, No. 3:19-cv-0330-MMD-CLB, 2021 WL 76722 (De. Nev. Jan. 7, 2021); *San Ramon*
18 *Regional Med. Ctr., Inc. v. Principal Life Ins. Co.*, No. C 10-02258 SBA, 2011 WL89931, at
19 *n.1 (N.D. Cal. Jan. 10, 2011); *Abbey v. Hawaii Employers Mut. Ins. Co.*, No. 09-000545
20 SOM/BMK, 2010 WL4715793, at * 1-2 (D. HI. Nov. 15, 2010); *Wilkins v. Ahern*, No. C 08-
21 1084 MMC (PR), 2010 WL3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest Healthcare*
22 *Alliance Corp.*, No. CV-08-02381-PHX-FJM, 2009 WL 1212170, at * 1 (D.Ariz. May 4, 2009).
23 This is because a person's medical records contain sensitive and private information about their

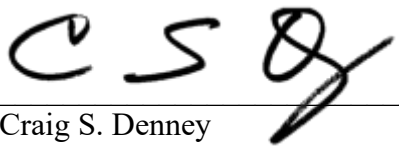
1 health. While a plaintiff puts certain aspects of his medical condition at issue when he files an
2 action alleging deliberate indifference to a serious medical need under the Eighth Amendment,
3 that does not mean that the entirety of his medical records filed in connection with a motion
4 (which frequently contain records that pertain to unrelated medical information) need be
5 unnecessarily broadcast to the public. In other words, the plaintiff's interest in keeping his
6 sensitive health information confidential outweighs the public's need for direct access to the
7 medical records.

8 Here, the referenced exhibits contain Plaintiff's sensitive health information, medical
9 history, and treatment records. Balancing the need for the public's access to information
10 regarding Plaintiff's medical history, treatment, and condition against the need to maintain the
11 confidentiality of Plaintiff's medical records weighs in favor of sealing these exhibits.

12 CONCLUSION

13 Both Defendants' motion (ECF No. 92) and Plaintiff's motion (ECF No. 102) are
14 **GRANTED**. The exhibits set forth at ECF Nos. 93, 93-1 to 93-23 and 104, 104-1 to 104-2 shall
15 remain **SEALED**; however, Plaintiff's motion for leave to file those exhibits under seal (ECF
16 No. 102) shall be **UNSEALED**.
17 **IT IS SO ORDERED.**

18 Dated: October 26, 2023

19 
20 Craig S. Denney
21 United States Magistrate Judge
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